Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
Implementation of Section 304 of the Telecommunications Act of 1996	)	CS Docket No. 97-80
	)	
	)	
Commercial Availability of Navigation Devices	)	
	)	
Compatibility Between Cable Systems and Consumer Electronics Equipment	)	PP Docket No. 00-67
	)	

Comments on Behalf of Matsushita Electric Corporation of America
In Response To The Second Further Notice Of Proposed Rulemaking

These comments are submitted on behalf of our client, Matsushita Electric Corporation of America ("MECA"), in response to the Federal Communication Commission ("FCC" or "Commission") Second Further Notice of Proposed Rulemaking in the above-captioned proceeding ("Plug and Play proceeding"). MECA is the principal North American subsidiary of Matsushita Electric Industrial Co., Ltd., based in Osaka, Japan.

MECA and its subsidiaries and affiliates (hereinafter "Panasonic") manufacture and distribute a wide range of consumer electronics, information technology, and other electronics products. These include digital televisions, recorders, set-top boxes, networking, and other devices which would be affected by decisions in this proceeding. Panasonic employs approximately 22,000 persons in over 90 business locations in North America, including eleven manufacturing facilities.

Before addressing the specific items in the Commission's notice, we would like to take this opportunity to make two overall comments. First, we underscore the importance of the Commission's maintaining the deadlines it has already set to move the DTV transition forward, and the Rules it has adopted to ensure open and fair competition in providing digital television services and related equipment. For example, it is essential that the obligation for all new cable-operator supplied equipment to utilize and rely solely on the separate security point-of-deployment module ("POD", now called CableCARD) be maintained and that the date for compliance with this remain no later than the currently required July 2006. This will ensure that the competition in the cable equipment market that Congress mandated will be realized, and that the real benefits of such competition will promptly accrue to consumers, both Congress and the Commission intend. Only when all must use the POD—itself developed

by the cable industry to support the services provided by cable operators nationwide—will all consumers have the full variety of, choice of, and opportunity offered by equipment to attach to their cable systems which comes from head-to-head competition among manufacturers, all building simultaneously to a single, common set of specifications.

Second, as a "rule of thumb", we urge the Commission to look primarily to the marketplace to make choices, such as for existing and new technologies to provide content protection, and that the Commission should exercise oversight of the marketplace so that its regulatory authority can be utilized in those instances where final decisions are needed or disputes are thwarting the ability of the market to respond in a timely way.

1. Cable systems operating at less than 750MHz (paragraph 80 of the Commission's Report and Order in the Plug and Play rulemaking). Panasonic believes that as many consumers as possible who rely on cable should be able to obtain the benefits of the "cable-ready" one-way and two-way/interactive equipment which can be provided from many manufacturers. We applaud cable operators' continuing investment in and development of their systems in order to upgrade to the specified 750MHz; and we anticipate that more systems will achieve this capacity soon. In light of the anticipated benefits of this "cable-ready" competition, however, and its role in the Federal Government's policy, expressed by the Commission, for facilities-based competition, the Commission could move to assess how many cable customers are now served by 750MHz systems, and the trends for smaller capacity systems toward achieving this benchmark level. Such assessment would aid in the understanding of the market potential for "cable-ready" products and its overall potential impact on the larger digital television transition.

2. Labeling and disclosure issues (paragraph 81). Panasonic believes that clear and understandable labeling and disclosure to consumers is in the interest of all participants in this market, and that such labeling and disclosure will, accordingly, continue to be well addressed on a voluntary basis by industry participants. To facilitate the marketplace development of print and other materials for this purpose, the Commission should continue to support manufacturers and cable operators' on-going efforts—which both have reported to the Commission—to develop and promote industry standards for nomenclature and labeling, and their use in marketing, promotion and advertising. We further note that false and misleading labeling and advertising is already subject to enforcement by the Federal Trade Commission and that there already exist consumer protection requirements federal and state law appropriate to this arena.

3. Down resolution issues (paragraph 82). In this important matter, Panasonic endorses the comments submitted by the Consumer Electronics Association

("CEA") and the Home Recording Rights Coalition ("HRRC").[1] If and where down resolution is permitted to be used, however, our further comment is that any such use must be consistent, and rules and requirements governing resolution should be clearly stated for consumers, and must be consistently applied. For example, when down-resolution is forbidden in the original receiver (e.g., a set-top box), the programming must be permitted to remain in full resolution to and through all subsequent devices. Similarly, of course, if the original receiver device is not permitted to send "full resolution" programming, then any and all other devices handling that same programming also should not be allowed to pass along the full resolution. Failure to adopt such a requirement would cause immense consumer confusion inasmuch as different products would behave differently for no apparently reason; and the fundamental goals of consumer protection, as well as enhancement of consumers' experience through digital, would be stymied. And ultimately, this situation also could create a market disadvantage for various "downstream" products.

4. Decisions on new outputs (paragraph 83). Panasonic echoes CEA's comments supporting the Commission's initial decisions—and the processes used to reach them--with regard to protection technologies authorized in the DFAST license referenced in the Plug and Play Rules adopted by the FCC. With regard to decisions on new outputs to be authorized, while Panasonic generally supports industry-led activities in lieu of, or in support of, government regulations, we believe that reliance on the marketplace development of technologies will lead to a wider and more productive and cost-efficient range of choices for product designers and manufacturers. In addition, such marketplace reliance will provide the commensurate competition among designers and the resultant choice and cost benefits to consumers. In the review and determination process, we encourage the Commission to regard favorably those technologies that are actually adopted in the market especially where those technologies have been adopted, and even already deployed by content companies to protect their content.

We also recognize, however, that certain situations may require that the relevant government agency take a significant role. As an example, the FCC itself could, and in this case should, serve as a final arbiter to resolve any disputes that may arise over initial decisions. This is particularly important where the initial decision-making body is financially and organizationally supported by one industry. No matter the putative safeguards, the actions of any such entity could be suspect in the eyes of other groups or the public, and without broader involvement in such a complex area, decisions might well be made unreasonably or unnecessarily redounding to the detriment of companies from other industry groups.

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[1] In addition to this and other specific points where these comments are referenced, Panasonic generally endorses the comments submitted by CEA and HRRC.

An example of where such concerns could come into play would be the limitation to particular interfaces for the Digital Transmission Content Protection ("DTCP") technology in the existing Plug and Play requirements. DTCP is designed to be ported to various interfaces, and to use various kinds of connectors without any modification to the protections built in to the technology. But only the initial interface applications of DTCP—i.e., IEEE 1394—were included in the Plug and Play Rules. Therefore, we recommend that the commission adopt the principle that, because it is the protection technology itself being vetted and approved, any interface using such approved technology may be permitted without further action. In the case of DTCP, this would mean that all interfaces approved for DTCP can and should be included, among them the relatively new application to Internet Protocol ("IP") based interfaces.

In any regulatory intervention to resolve disputes or make final determinations, we also believe that the balance here must be very careful. There is no reason for the Commission to include "downstream" products under its regulations. Similarly, once an approved technology has "taken responsibility" for content, the Commission's regulations do not need to intrude into the license-based regime supporting a particular technology. In other words, the Commission should ensure that the process is fair for approving technologies to enable new outputs or recording capabilities, but it should not overextend that role.

Finally, while Panasonic generally supports the concept of a unified regime for consideration of content protection technologies called for in this proceeding and in the "broadcast flag" proceeding, since such a unified approach could simplify technology choices by individual manufacturers and make explanations to consumers simplier, nevertheless, we have a concern that a "unified regime" approach could have the effect of inhibiting existing deployed technologies, limiting further technology development overall, or specifying technology choices by manufacturers. Therefore, we suggest the Commission implement a "unified regime" where it finds that the stated purposes and goals of the two proceedings are consistent, and where such regime can clearly assist in avoiding or substantially reducing potential consumer confusion.

All three comments noted here are offered in the belief that there are already many, and there will certainly be many more, "approvable" protection technologies; and that with multiple options to choose from, the Commission may more readily forebear from regulating in licensing and related areas.

5. Objective criteria (paragraph 84). On this point, Panasonic refers the Commission to the comments filed today by the Digital Transmission License Administrator, LLC ("DTLA") in the parallel "broadcast flag" proceeding.

6. Decisionmaking authority (paragraph 85). Panasonic believes that the Commission itself should be the ultimate decision-maker with regard to matters subject to its regulations here, with industry-based organizations serving to

provide initial work and advisory inputs. Where no objections are heard in the Commission's public process to these initial inputs, then we believe the Commission's role can be limited accordingly.

7. Revocation (paragraph 86). As indicated in the comments from CEA, HRRC, and DTLA, we believe it is absolutely essential that revocation of products be based solely on cryptographic compromises, and that failure to adhere to various requirements must not be used as the basis for "turning off" products already manufactured, especially for products already in consumer homes. Revocation tools provided in certain technological offerings (including, for example, the technology offered by DTLA) were intended for the very limited situation in which a key or certificate has been lost or has been cloned and is being used in multiple products. We also note that, in the cable context, there are other remedies based on the customer relationship between the consumer and the cable provider.

There is a separate issue related to the question of whether a particular technology has been compromised such that it no longer should be included on a list of "approved" technologies. In those cases, we believe that the same type of system as used to place technologies on the list should be used to remove it, with the additional criteria of: (a) likely harm to content protection and content owners if the technology remains on the list and, (b) likely harm to manufacturers, retailers, and consumers if a given technology is removed from the list. The latter criterion is critical to ensure that consumers already owning products incorporating the technology are not disadvantaged.

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We appreciate the opportunity provided by the Commission to participate in this important proceeding.

Respectfully submitted,

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